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Agenda items 56 (f) and (n) and 163

Cooperation between the United Nations and regional and other organizations: cooperation between the United Nations and the Council of Europe; cooperation between the United Nations and the Organization for Security and Cooperation in Europe

The situation in the occupied territories of Azerbaijan

Security Council
Sixtieth year

Letter dated 2 February 2005 from the Permanent Representative of Azerbaijan to the United Nations addressed to the Secretary-General

Upon instruction from my Government I have the honour to transmit herewith resolution 1416 (see annex I) and recommendation 1690 (see annex II), both entitled "The conflict over the Nagorno-Karabakh region dealt with by the OSCE Minsk Conference" and adopted on 25 January 2005 by the Parliamentary Assembly of the Council of Europe, the oldest international parliamentary assembly, comprising members of the Parliaments of 46 European countries.

I should be grateful if the present letter and its annexes were distributed as a document of the General Assembly under items 56 (f), 56 (n) and 163 of the agenda, and of the Security Council.

(*Signed*) Yashar **Aliyev**
Ambassador
Permanent Representative

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Annex I to the letter dated 2 February 2005 from the Permanent Representative of Azerbaijan to the United Nations addressed to the Secretary-General

[Original: English and French]

The conflict over the Nagorno-Karabakh region dealt with by the OSCE Minsk Conference

Resolution 1416 (2005)

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1. The Parliamentary Assembly regrets that, more than a decade after the armed hostilities started, the conflict over the Nagorno-Karabakh region remains unsolved. Hundreds of thousands of people are still displaced and live in miserable conditions. Considerable parts of the territory of Azerbaijan are still occupied by Armenian forces and separatist forces are still in control of the Nagorno-Karabakh region.

2. The Assembly expresses its concern that the military action, and the widespread ethnic hostilities which preceded it, led to large-scale ethnic expulsion and the creation of mono-ethnic areas which resemble the terrible concept of ethnic cleansing. The Assembly reaffirms that independence and secession of a regional territory from a state may only be achieved through a lawful and peaceful process based on democratic support by the inhabitants of such territory and not in the wake of an armed conflict leading to ethnic expulsion and the de facto annexation of such territory to another state. The Assembly reiterates that the occupation of foreign territory by a member state constitutes a grave violation of that state's obligations as a member of the Council of Europe and reaffirms the right of displaced persons from the area of conflict to return to their homes safely and with dignity.

3. The Assembly recalls Resolutions 822 (1993), 853 (1993), 874 (1993) and 884 (1993) of the United Nations Security Council and urges the parties concerned to comply with them, in particular by refraining from any armed hostilities and by withdrawing military forces from any occupied territories. The Assembly also aligns itself with the demand expressed in Resolution 853 (1993) of the United Nations Security Council and thus urges all member states to refrain from the supply of any weapons and munitions which might lead to an intensification of the conflict or the continued occupation of territory.

4. The Assembly recalls that both Armenia and Azerbaijan committed themselves upon their accession to the Council of Europe in January 2001 to use only peaceful means for settling the conflict, by refraining from any threat of using force against their neighbors. At the same time, Armenia committed itself to use its considerable influence over Nagorno-Karabakh to foster a solution to the conflict. The Assembly urges both Governments to comply with these commitments and refrain from using armed forces against each other as well as from propagating military action.

5. The Assembly recalls that the Council of Ministers of the Conference for Security and Co-operation in Europe (CSCE) agreed in Helsinki in March 1992 to hold a conference in Minsk in order to provide for a forum for negotiations for a peaceful settlement of the conflict. Armenia, Azerbaijan, Belarus, the former Czech and Slovak Federal Republic, France, Germany, Italy, the Russian Federation, Sweden, Turkey and the United States of America agreed at that time to participate in this Conference. The Assembly calls on these states to step up their efforts to achieve the peaceful resolution of the conflict and invites their national delegations to the Assembly to report annually to the Assembly on the action of their governments in this respect. For this purpose, the Assembly asks its Bureau to create an Ad hoc Committee with inter alia the heads of these national delegations.

6. The Assembly pays tribute to the tireless efforts of the Co-Chairs of the Minsk Group and the Personal Representative of the OSCE Chairman-in-Office, in particular for having achieved a cease-fire in May 1994 and having monitored the observance of this cease-fire since then. The Assembly calls on the OSCE Minsk Group Co-

Chairs to take immediate steps to conduct speedy negotiations for the conclusion of a political agreement on the cessation of the armed conflict, the implementation of which will eliminate major consequences of the conflict for all parties and permit the convening of the Minsk Conference. The Assembly calls on Armenia and Azerbaijan to make use of the OSCE Minsk Process and actively submit to each other via the Minsk Group their constructive proposals for the peaceful settlement of the conflict in accordance with the relevant norms and principles of international law.

7. The Assembly recalls that Armenia and Azerbaijan are signatory parties to the Charter of the United Nations and, in accordance with Article 93, paragraph 1 of the Charter, *ipso facto* parties to the Statute of the International Court of Justice. Therefore, the Assembly suggests that if the negotiations under the auspices of the Co-Chairs of the Minsk Group fail, Armenia and Azerbaijan should consider using the International Court of Justice in accordance with Article 36, paragraph 1 of the Court's Statute.

8. The Assembly calls on Armenia and Azerbaijan to foster political reconciliation among themselves by stepping up bilateral inter-parliamentary co-operation within the Assembly as well as in other forums such as the meetings of the Speakers of the Parliaments of the Caucasian Four. It recommends that both delegations should meet during each part-session of the Assembly to review progress on such reconciliation.

9. The Assembly calls on the Government of Azerbaijan to establish contacts without preconditions with the political representatives of both communities from the Nagorno-Karabakh region regarding the future status of the region. It is prepared to provide facilities for such contacts in Strasbourg, recalling that it did so in the form of a hearing on previous occasions with Armenian participation.

10. Recalling its Recommendation 1570 (2002) on the situation of refugees and displaced persons in Armenia, Azerbaijan and Georgia, the Assembly calls on all member and observer states to provide humanitarian aid and assistance to the hundreds of thousands of people displaced as a consequence of the armed hostilities and the expulsion of ethnic Armenians from Azerbaijan and ethnic Azerbaijanis from Armenia.

11. The Assembly condemns any expression of hatred portrayed in the media of Armenia and Azerbaijan. The Assembly calls on Armenia and Azerbaijan to foster reconciliation, confidence-building and mutual understanding among their peoples through schools, universities and the media. Without such reconciliation, hatred and mistrust will prevent stability in the region and may lead to new violence. Any sustainable settlement must be preceded by and embedded in such reconciliation processes.

12. The Assembly calls on the Secretary General of the Council of Europe to draw up an action plan for specific support to Armenia and Azerbaijan targeted at mutual reconciliation processes and to take this resolution into account in deciding on action concerning Armenia and Azerbaijan.

13. The Assembly calls on the Congress of Local and Regional Authorities of the Council of Europe to assist locally elected representatives of Armenia and Azerbaijan in establishing mutual contacts and inter-regional co-operation.

14. The Assembly resolves to analyse the conflict settlement mechanisms existing within the Council of Europe, in particular the European Convention for the Peaceful Settlement of Disputes, in order to provide its member states with better mechanisms for the peaceful settlement of bilateral conflicts as well as internal disputes involving local or regional territorial communities or authorities which may endanger human rights, stability and peace.

15. The Assembly resolves to continue monitoring on a regular basis the peaceful resolution of this conflict and decides to revert to considering this issue at its first part-session in 2006.

Annex II to the letter dated 2 February 2005 from the Permanent Representative of Azerbaijan to the United Nations addressed to the Secretary-General

[Original: English and French]

The conflict over the Nagorno-Karabakh region dealt with by the OSCE Minsk Conference

Recommendation 1690 (2005)

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1. The Parliamentary Assembly refers to its Resolution 1416 (2005) on the conflict dealt with by the OSCE Minsk Conference and recommends that the Committee of Ministers:

i. urge the parties concerned to comply with the United Nations Security Council Resolutions 822 (1993), 853 (1993), 874 (1993) and 884 (1993), in particular by refraining from any armed hostilities and by withdrawing military forces from all occupied territories of Azerbaijan;

ii. monitor the compliance by Armenia and Azerbaijan with the United Nations Security Council Resolutions and the decisions of the OSCE Council of Ministers on this conflict and to report to the Assembly on the outcomes of this monitoring;

iii. report to the Assembly on the efforts undertaken by member states for the peaceful settlement of the conflict in accordance with the Resolutions of the United Nations Security Council including whether member states refrain from the supply of any weapons and munitions which might lead to an intensification of the conflict or the continued occupation of territory in violation of Resolution 853 (1993) of the United Nations Security Council;

iv. recalling its Recommendation 1251 (1994) on the conflict in Nagorno-Karabakh, place experts at the disposal of Armenia and Azerbaijan who could help draw up a political status for Nagorno-Karabakh, if they so wish;

v. allocate resources for an action plan of specific confidence-building measures for Armenia and Azerbaijan;

vi. allocate resources for specific training programmes for teachers and journalists from both countries aimed at better mutual understanding, tolerance and reconciliation;

vii. allocate resources for specific action by the European Commission against Racism and Intolerance concerning both countries, in particular with regard to educational institutions and the public media;

viii. instruct its competent steering committee to analyse how far the European Convention for the Peaceful Settlement of Disputes reflects the current requirements of conflict settlement among member states of the Council of Europe and where it should be revised in order to provide an adequate instrument for the peaceful settlement of disputes between the member states of the Council of Europe;

ix. take Resolution 1416 (2005) into account when deciding on action concerning both countries;

x. forward Resolution 1416 (2005) and this Recommendation to the governments of member states with a view to supporting them nationally, bilaterally and internationally.

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Agenda items 100 and 163

Report of the United Nations High Commissioner for Refugees, questions relating to refugees, returnees and displaced persons and humanitarian questions

The situation in the occupied territories of Azerbaijan

Letter dated 2 February 2005 from the Permanent Representative of Azerbaijan to the United Nations addressed to the Secretary-General

I would like to refer to the letter dated 3 December 2004 from the Permanent Representative of Armenia,[1] in which he made reference to the concluding observations of the Committee on Economic, Social and Cultural Rights on the second periodic report of Azerbaijan on the implementation of the International Covenant on Economic, Social and Cultural Rights.[2]

Apparently, the content and outcomes of the reporting process and bilateral dialogue between a State party and a human rights treaty monitoring body are designed to contribute to the further effective implementation by that State party of its commitments under a specific international human rights instrument, not to be used as grounds for politically motivated accusations by another State party.

It is unfortunate that Armenia's representative, by applying, for his political convenience, a selective approach to the above-mentioned report, misinterprets and disguises its very essence. By doing so he tries to mislead the international community. It is not surprising that the Armenian representative, "presenting" paragraph 28 of the report, deliberately omitted the important words "by refugees and internally displaced persons", thus falsifying the meaning of the paragraph. He also dealt with paragraph 15 in the same indecent way.

The matter of the so-called illegal occupation of properties touched upon by the Committee on Economic, Social and Cultural Rights and selectively picked by the Armenian representative from the complex of interrelated and interconnected issues should be considered in the context of the armed conflict between Armenia and Azerbaijan as a whole, and interpreted by taking into account its consequences, in particular the violent displacement of populations, which has been reflected in

[1] A/59/593.
[2] E/C.12/1/Add.104, 26 November 2004.

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other relevant documents, including those adopted by the principal organs of the United Nations and other human rights treaty monitoring bodies.[3]

The Committee on Economic, Social and Cultural Rights itself, in the same report, notes that "the presence of a large number of refugees and internally displaced persons as a result of the conflict with Armenia continues seriously to hamper the State party's [Azerbaijan's] ability to implement the economic, social and cultural rights contained in the Covenant".[4]

Before attempting to misinterpret paragraph 15 in the context of the minority issue, Armenia should not overlook the fact that, unlike itself, which has purged its territory of all non-Armenians and become a uniquely mono-ethnic State, Azerbaijan has preserved its ethnic diversity to the present day. The United Nations High Commissioner for Refugees, during his visit to Baku last November, commended the fact, which speaks for itself, that there are at present about 30,000 Armenians living in Azerbaijan, outside the Nagorny-Karabakh region, including 20,000 in Baku.

Instead of accusing other States of pursuing "discriminatory policies with regard to ethnic minorities", it is for the Government of Armenia to exercise some degree of self-evaluation and to analyse the state of implementation of its own international obligations in the field of human rights, and in particular to pay more attention to the conclusions and recommendations of the human rights treaty monitoring bodies on its periodic reports. The human rights treaty monitoring bodies have repeatedly expressed their concerns about the spirit of intolerance prevailing in Armenia and the discriminatory policies and practices pursued in that country against ethnic and religious minorities, refugees and asylum-seekers, women and children.[5]

As for the Goranboy district and the Chaykend village of the Khanlar district of Azerbaijan, which are mentioned by the Permanent Representative of Armenia as "Shahumian" and "Getashen" districts, respectively, it should be recalled that in 1989 Armenian armed groups turned Chaykend into a criminal hub from which they bombed and shelled surrounding villages and roads, terrorizing the local Azerbaijani population. From 1989 to 1991, in Chaykend and adjacent areas, 54 people fell victim to Armenian armed groups. In 1991 central law enforcement agencies of the then-Soviet Union apprehended dozens of Armenian criminal gangs that operated in the area.

As far as the Decree of the President of Azerbaijan of 22 August 2001 is concerned, that was one of the numerous measures taken by the Government of Azerbaijan with the purpose of ensuring the right to adequate living standards, in particular dwelling conditions, for 250,000 Azerbaijanis forcibly expelled from Armenia as a result of ethnic cleansing from 1987 to 1989. The Decree called for the reconstruction of 1,400 demolished houses in Ashaghy Aghjakand and Yukhari

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[3] See General Assembly resolution 48/114; Security Council resolutions 822 (1993), 853 (1993), 874 (1993) and 884 (1993); E/CN.4/1999/79/Add.1, paras. 1, 20 and 23; and CERD/C/304/Add.75, para. 11.

[4] E/C.12/1/Add.104, para. 11.

[5] See A/57/18, paras. 277, 278, 280, 282 and 283; CRC/C/15/Add.119, paras. 24, 32, 46 and 48; CCPR/C/79/Add.100, paras. 14, 15, 16 and 17; and E/C.12/1/Add 39, para. 10.

Aghjakand[6] in order to accommodate refugees from Armenia who had already found shelter in the area, but not in Baku and Ganja as the Armenian representative claimed.

Before making clumsy attempts to react to the inclusion of item 163, entitled "The situation in the occupied territories of Azerbaijan", in the agenda of the fifty-ninth session of the General Assembly, Armenia should realize the key difference between (a) the issues relating to serious breaches of the specific legally binding rules applicable in occupied territories, such as those prohibiting the transfer of population into the occupied territories, which falls within the category of war crimes, and (b) the complex of issues deriving from the problem of population displacement from the areas not considered occupied by definition.

Instead of trying to contribute to restoring peace and security in the region and putting an end to its illegal activities, Armenia, which bears the premier responsibility for the consequences of the armed conflict, misleads the international community by concealing the very essence of the document adopted by the United Nations human rights treaty monitoring body.

Last but definitely not least, and fully relevant to the matter in question, I would like to quote from resolution 1416, entitled "The conflict over the Nagorno-Karabakh region dealt with by the OSCE Minsk Conference", adopted by the Parliamentary Assembly of the Council of Europe on 25 January 2005: "The Parliamentary Assembly regrets that, more than a decade after the armed hostilities started, the conflict over the Nagorno-Karabakh region remains unsolved. Hundreds of thousands of people are still displaced and live in miserable conditions. Considerable parts of the territory of Azerbaijan are still occupied by Armenian forces and separatist forces are still in control of the Nagorno-Karabakh region ... The Assembly recalls resolutions 822 (1993), 853 (1993), 874 (1993) and 884 (1993) of the United Nations Security Council and urges the parties concerned to comply with them, in particular by refraining from any armed hostilities and by withdrawing military forces from any occupied territories" (see A/59/689-S/2005/64, annex I).

Therefore, I call on my Armenian counterpart to ponder the prospects of conflict settlement instead of resorting to futile efforts to falsify history and to make misstatements.

[6] The Ashaghy Aghjakand settlement of the Goranboy district was named Shahumian in 1938. On regaining its independence, Azerbaijan merely restored the original name of the settlement. As for the village referred to in the Armenian letter as Verinshen, it is nothing but a literal translation of the original Azerbaijani name of the settlement Yukhari Aghjakand into Armenian, omitting only the word "aghja". The Armenian side began referring to Yukhari Aghjakand as Verinshen only after the beginning of the Armenia-Azerbaijan conflict, though one cannot find a settlement named Verinshen in that very place throughout history. To erase from history the fact that Azerbaijanis had lived in the area, which is now of the Republic of Armenia, it was in fact Armenia that renamed some 2,000 towns, villages and regions that bore Azerbaijani names for centuries, after their transfer from Azerbaijan to Armenia following the establishment of Soviet rule in both countries in 1920.

I should be grateful if you would have the text of the present letter circulated as a document of the General Assembly under agenda items 100 and 163.

(*Signed*) Yashar **Aliyev**
Ambassador
Permanent Representative